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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,108	12/06/2001	Harry R. Layne	DT-US015146	3905
22919	7590	11/12/2003	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			DORSEY, DENNIS	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/004,108

Applicant(s)

LAYNE ET AL.

Examiner

Dennis L Dorsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.                      6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Figures 7-10, claims 1-21 in Paper No. 7 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers, Jr. Patent Number 5,465,538.

Powers '538 teaches all the limitations of the above claims including a metal rectangular base member (41), first and second rectangular side members (34,37) fixed and integral to form a u-shaped cross-section (see Figure 2), at least four spacer members (27) coupled between by first and second mounting flanges (66), and a reinforcing bar (30) coupled to said lintel within longitudinal passageway formed by spacer members (27).

4. Claims 11-14 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Powers, Jr. Patent Number 5,465,538.

Powers, Jr. teaches all the limitations of the above claims including constructing a block wall (12), installing a lintel (20), a metal rectangular base member (41), first and second rectangular side members (34,37) fixed and integral to form a u-shaped cross-

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section (see Figure 2), at least four spacer members (27) coupled between by first and second mounting flanges (66), a reinforcing bar (30) coupled to said lintel within longitudinal passageway formed by spacer members (27), and pouring cementing slurring into said block (column 5, lines 13-16).

5. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosuge Patent Number 4,018,018.

Kosuge '018 teaches all the limitations of the above claims including a lintel block (1) with a rectangular base member with first and second rectangular side members (2, 3), a plurality of spacer members (4), and first and second openings (5) in said rectangular base member.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers, Jr. Patent Number 5,465,538.

Powers '538 teaches all the limitations of the above claims except welding said spacer members to the side members. Powers '538 teaches a metal rectangular base member (41), first and second rectangular side members (34,37) fixed and integral to form a u-shaped cross-section (see Figure 2), and at least four spacer members (27) coupled between by first and second mounting flanges (66). It is well known in the

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building art to weld metal connections. It would have been obvious for one skilled in the art to modify the Powers '538 invention and weld the spacer members since it is held to be within the skill of a worker in the art to weld the connection to make it a stronger connection as a matter of obvious design choice.

8. Claims 11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosuge Patent Number 4,018,018.

Kosuge '018 teaches all the limitations of the above claims except the specific teaching of constructing a wall with an opening. Kosuge teaches constructing a wall (column 1, lines 19-21), installing and securing a lintel block (1) with a rectangular base member with first and second rectangular side members (2, 3), a plurality of spacer members (4), first and second openings (5) in said rectangular base member, and installing first and second wall reinforcing bars (13) in openings. It is well known to provide walls with openings for windows or doors. It would have been obvious for one skilled in the art to provide an opening in the wall as taught by Kosuge '018 and install block (1) above the opening since it held to within the skill of a worker in the art as a matter of obvious design choice.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD 

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637